

Exhibit 17

FINANCIAL OVERSIGHT & MANAGEMENT BOARD FOR PUERTO RICO



David A. Skeel, Jr.
Chair

Members

Andrew G. Biggs
Arthur J. González
Antonio L. Medina
John E. Nixon
Justin M. Peterson
Betty A. Rosa

BY ELECTRONIC MAIL

June 13, 2022

Honorable Pedro Pierluisi Urrutia
Governor of Puerto Rico

Dear Governor Pierluisi Urrutia,

We write regarding House Bill 1244 (“HB 1244” or the “Bill”). As you know, the Bill proposes to repeal certain portions of Act 4-2017, the Labor Transformation and Flexibility Act (the “LTFA”), to reestablish many of the burdensome labor restrictions that existed prior to LTFA’s passage, and to create new labor restrictions.

Previously, the Legislature attempted to modify the LTFA by passing House Bill 3 (“HB 3”). On June 24, 2021, prior to HB 3’s passage, the Oversight Board sent a letter to you and Legislative leadership explaining its serious concerns with HB 3, informing the Legislature that HB 3 was inconsistent with the certified Commonwealth Fiscal Plan (the “Certified Fiscal Plan”), and would impair and defeat the purposes of PROMESA. In that letter, the Oversight Board cited to the provision in the Certified Fiscal Plan which states:

While some stakeholders have called for the repeal of [the LTFA], its elimination would likely reestablish onerous provisions related to probationary periods, overtime, and bonuses, which would all make the hiring environment more costly in the formal sector. Its repeal would discourage new hiring and reduce the labor market flexibility, thus limiting the effectiveness of the [Earned Income Tax Credit] expansion in promoting labor force participation, economic growth, and the revenues associated with that growth. Therefore, the Government must refrain from repealing [the LTFA] or enacting new legislation that negatively impacts labor market flexibility.¹

The Legislature disregarded the Oversight Board’s June 24, 2021 letter and passed HB 3 on February 7, 2022. On February 11, 2022, the Oversight Board formally determined HB 3 impairs

¹ Certified Fiscal Plan at 86. See also 2021 Certified Fiscal Plan at 79.

Governor Pierluisi Urrutia

June 13, 2022

Page 2 of 4

or defeats the purposes of PROMESA. On March 4, 2022, you vetoed HB 3 and requested the Legislature reconsider its provisions.²

In response, the House passed HB 1244 on March 10, 2022. On March 18, 2022, the Oversight Board passed a resolution advising the Government it is barred from enacting, implementing, and enforcing HB 1244 because the Bill impaired and defeated the purposes of PROMESA. On June 2, 2022, the Senate passed HB 1244 with minimal amendments. On June 7, 2022, the House passed the Senate's version of HB 1244.

HB 1244, like HB 3, proposes to repeal portions of the LTFA and reestablish many of the burdensome labor restrictions that existed prior to the passage of the LTFA. Like HB 3, it also seeks to create new labor restrictions. Specifically, the Bill, among other things:

- Reverts the probationary period during which employers may terminate employees at will from nine (9) months (twelve (12) months for exempt employees) back to three (3) months;
- Reverts the mandatory Christmas bonus “hours worked” threshold from 1,350 hours to 700 hours within the twelve (12) month period between October 1 and September 30 of any year;
- Creates sick and vacation day benefits for part-time employees (working 20 hours per week, up to 115 hours per month);
- Provides for an overtime pay rate of twice the regular pay rate for employed students on the seventh consecutive day of work unless their employer is considered a micro, small, or medium enterprise, as defined by Law 62-2014;
- Increases the vacation accrual rate;
- Provides for a wrongful termination indemnity formula even more generous than the pre-2017 formula;
- Reverts to a presumption that an employee dismissal is unjustified, and places the burden on the employer to prove otherwise;
- Reverts to a presumption of discrimination if the employer's actions are deemed to be without just cause; and
- Extends statutes of limitations from one (1) year to three (3) years for employment-related causes of action, including: unjustified dismissal claims; wage, accrued vacation, and accrued sick leave claims; and actions derived from an employment contract or those that stem from such a contract, unless otherwise indicated by law or in the contract.³

HB 1244 would: (1) deter new investments in Puerto Rico and the jobs the new investments would create; (2) negatively impact Puerto Rico's dismal labor force participation rate; (3) reduce economic growth and market competition; (4) deprive the Commonwealth of the revenues associated with such revenue growth (including by reducing the effectiveness of the Earned Income Tax Credit); and (5) increase the Commonwealth's public assistance burden. Indeed, the

² See Gobernador veta el Proyecto de la Cámara 3 porque contiene errores de lenguaje que afectan derechos de los trabajadores, LA FORTELEZA (Mar. 4, 2022) (available at <https://www.fortaleza.pr.gov/comunicados/gobernador-veta-el-proyecto-de-la-camara-3-porque-contiene-errores-de-lenguaje-que-afectan-derechos-de-los-trabajadores>).

³ This is not an exhaustive list of the burdensome labor restrictions contained in the Bill.

Governor Pierluisi Urrutia

June 13, 2022

Page 3 of 4

Bill renders Puerto Rico less attractive to new investors wanting to create new businesses and more jobs because it increases labor costs and litigation rather than allowing the free market to determine employee compensation. Thus, the Bill hinders and diminishes the economic growth PROMESA promotes, and the Government should want to encourage. Furthermore, as noted above, by repealing portions of the LTFA, the Bill is directly at odds with the Certified Fiscal Plan's provisions requiring the LTFA not be repealed.

The Oversight Board notifies you it has determined that HB 1244 impairs and defeats PROMESA's purposes. By seeking to repeal the LTFA's reforms, the Bill is significantly inconsistent with the Certified Fiscal Plan. You are barred from signing the Bill into law by PROMESA Section 108(a)(2). Further, PROMESA Section 108(a)(2) bars the Bill's implementation and enforcement.

If you elect to ignore PROMESA's prohibition on your enacting HB 1244, please be advised that you will still be required to submit a formal estimate and certification pursuant to PROMESA Section 204(a) within seven (7) business days of enacting the law. While we do not expect you to take action in violation of a federal statute, to the extent you do, we will expect to receive the Section 204(a) submission promptly within the time period prescribed by PROMESA and that the estimate will address the full economic impact of the issues raised in this letter, including how the Bill's impact on labor force participation will affect revenues. Further, please be advised that given the language in the Certified Fiscal Plan instructing the Government to refrain "from repealing [the LTFA] or enacting new legislation that negatively impacts labor market flexibility,"⁴ we expect the Section 204(a) certification will find HB 1244 to be significantly inconsistent with the Certified Fiscal Plan and do not believe any other accurate conclusion is possible.⁵ Regardless of the substance of your certification, enactment, implementation, and enforcement of HB 1244 will remain barred by PROMESA Section 108(a)(2).

The Oversight Board reserves all its rights, including those under PROMESA Sections 104(k), 108(a)(2), and 204, to take such actions it deems necessary, including seeking remedies to prevent enactment, implementation, and enforcement of HB 1244 and to nullify HB 1244. We hope such actions will be unnecessary.

We look forward to continuing to work together for the benefit of the people of Puerto Rico.

Sincerely,



Jaime A. El Koury
General Counsel

⁴ Certified Fiscal Plan at 86.

⁵ Although we trust this reminder is unnecessary, we take this opportunity to note the penalties set forth in PROMESA Section 104(l) for providing false or misleading statements to the Oversight Board.

Governor Pierluisi Urrutia

June 13, 2022

Page 4 of 4

CC: Hon. Omar Marrero Díaz
Hon. José Luis Dalmau
Hon. Rafael Hernández Montañez